

AMENDED IN SENATE AUGUST 3, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 28, 2010

AMENDED IN SENATE JUNE 16, 2010

AMENDED IN ASSEMBLY MAY 19, 2010

AMENDED IN ASSEMBLY MAY 3, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

AMENDED IN ASSEMBLY MARCH 22, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2483

Introduced by Assembly Member Coto
(Coauthors: Assembly Members Beall, Caballero, Fong, Monning,
and Torrico)
(Coauthor: Senator Maldonado)

February 19, 2010

An act to amend Sections 4, 26.5, and 26.7 of, to add Section 29 to, and to repeal Section 26.6 of, the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to the Santa Clara Valley Water District.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Coto. Santa Clara Valley Water District.

(1) The Santa Clara Valley Water District Act establishes the Santa Clara Valley Water District and specifies its powers and purposes relating to water supply and flood management.

This bill would authorize the district to take actions relating to water management, water quality, and energy and environmental benefits in the district. The bill also would authorize the district to provide incentives or assistance to water retailers to implement specified water conservation measures. The bill would authorize the district to implement other measures if the implementation of those measures is a precondition for continued delivery of imported water to the district pursuant to state or federal law.

(2) The act requires the district to annually prepare a written report on the district's activities in the protection and augmentation of the water supplies of the district, and requires the report to include information prescribed by the act and other information the board may order. The act requires the report to include a recommendation as to whether or not a groundwater charge should be levied in any zone or zones of the district during the ensuing water year and, if a groundwater charge is recommended, a proposal of the rate or rates per acre-foot of water, as specified.

This bill would require the report to additionally include groundwater monitoring information collected by the district. The bill would revise the required groundwater charge recommendation to instead require the district to make a recommendation as to whether a groundwater charge should remain unchanged, be decreased or increased, or be newly imposed in any zone or zones of the district.

(3) The act requires the board of directors of the district (board) to hold a public hearing on the annual report, and prescribes notice requirements for purposes of the public hearing.

This bill would repeal that public hearing requirement and the related notice requirements.

(4) The act requires the board to determine whether to levy a groundwater charge in any zone or zones prior to the end of the water year based upon findings and determinations from the public hearing on the annual report. The act sets forth various requirements relating to the calculation of groundwater charges, including a requirement that certain increases in rates be directly related to the reduction in the affected zone groundwater levels in a specified period. The act prescribes public hearing and notice requirements for the imposition of new and adjusted groundwater charges.

Article XIII D of the California Constitution, which was added pursuant to the approval by the voters of Proposition 218 at the November 5, 1996, statewide general election, generally requires that

assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of a written notice and the holding of a public hearing. Existing provisions of the Government Code prescribe specific procedures and parameters for local jurisdictions in complying with Article XIII D of the California Constitution.

This bill would repeal the public hearing and notice requirements related to groundwater charges, and would instead authorize the board to impose a groundwater charge in any zone in compliance with Article XIII D of the California Constitution and specified provisions of the Government Code. ~~This~~ The bill would revise certain requirements relating to the calculation of groundwater charges, and would delete the requirement that certain increases in groundwater charge rates be directly related to the reduction in the affected zone groundwater levels.

(5) By imposing new requirements on the district, this bill would create a state-mandated local program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4 of the Santa Clara Valley Water District
2 Act (Chapter 1405 of the Statutes of 1951), as amended by Section
3 1 of Chapter 279 of the Statutes of 2006, is amended to read:

4 ~~Sec. 4.~~

5 *Sec. 4.* (a) The purposes of this act are to authorize the district
6 to provide comprehensive water management for all beneficial
7 uses and protection from flooding within Santa Clara County.

8 (b) It is the intent of the Legislature that the district work
9 collaboratively with other appropriate entities in Santa Clara
10 County in carrying out the purposes of this act.

11 (c) The Legislature finds and declares all of the following:

12 (1) Historically, the district's role was to secure additional water
13 supplies to meet demand. However, there are limitations on the
14 district's ability to acquire new water and the state has enacted
15 water conservation goals.

(2) Authorization of demand management measures will ensure that the district has the tools and flexibility needed to address challenges to ensure a reliable and sustainable water supply future.

(d) The district may take action to do all of the following:

(1) Protect Santa Clara County from floodwater and stormwater of the district, including tidal floodwater and the floodwater and stormwater of streams that have their sources outside the district, but flow into the district.

(2) Protect from that floodwater or stormwater the public highways, life and property in the district, and the watercourses and watersheds of streams flowing within the district.

(3) Provide for the conservation and management of floodwater, stormwater, or recycled water, or other water from any sources within or outside the watershed in which the district is located for beneficial and useful purposes, including spreading, storing, retaining, and causing the waters to percolate into the soil within the district.

(4) Protect, save, store, recycle, distribute, transfer, exchange, manage, and conserve in any manner any of the waters.

(5) Increase and prevent the waste or diminution of the water supply in the district.

(6) Obtain, retain, protect, and recycle drainage, stormwater, floodwater, or treated wastewater, or other water from any sources, within or outside the watershed in which the district is located for any beneficial uses within the district.

(7) Enhance, protect, and restore the health of streams, waterways, riparian corridors, baylands, ecosystems, and natural resources in connection with carrying out the purposes set forth in this section.

(8) Preserve open space in Santa Clara County and support the county park system in a manner that is consistent with carrying out the powers granted by this section.

(9) Integrate management of all water resources of the district, in order to improve long-term water management sustainability, provide flexibility to address the impacts of anticipated extreme hydrological events, such as droughts and floods, and respond to climate change impacts, such as reduced snowpack, changes in local precipitation patterns, and rising sea level.

(10) Take action consistent with responsibility delegated by the state to urban wholesale water suppliers pursuant to Part 2.55

(commencing with Section 10608) of Division 6 of the Water Code.

(11) Provide incentives for water conservation and otherwise promote efficient water use.

(12) Integrate district energy and water policies and practices, in order to provide energy and environmental benefits.

(13) Protect, restore, or improve water quality for all beneficial uses, consistent with the express authorities provided in this act.

(14) Reduce greenhouse gas emissions from district operations ~~or sources within the district.~~

(e) Nothing in this act shall be construed to authorize the district to do any of the following:

(1) Impose measures on entities, other than the district, to mitigate climate change impacts, reduce greenhouse gas emissions, or increase the production of renewable or alternative energy.

(2) Require or impose specific rate structures on retail water suppliers.

(3) Regulate, limit, or condition the diversion and use of surface water, or the extraction and use of groundwater, or otherwise regulate, limit, or condition the exercise of water rights, except as expressly provided in this act.

(4) Act in conflict with legal authority exercised by any state agency, including, but not limited to, the State Department of Public Health, the State Water Resources Control Board, the San Francisco Bay Regional Water Quality Control Board, *the Central Coast Regional Water Quality Control Board*, or the Public Utilities Commission.

SEC. 2. Section 26.5 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Section 1 of Chapter 794 of the Statutes of 1989, is amended to read:

Sec. 26.5. (a) The district shall annually prepare a written report regarding the district's activities in the protection and augmentation of all water supplies of the district. The report shall include, among other information the board may order, all of the following:

(1) A financial analysis of the district's water utility system.

(2) Information as to the present and future water requirements of the district, the water supply available to the district, and future capital improvement and maintenance and operating requirements, and a method of financing those requirements.

1 (3) Groundwater monitoring information collected by the
2 district.

3 (4) A recommendation as to whether or not a groundwater
4 charge should remain unchanged, be decreased or increased, or be
5 newly imposed, in any zone or zones of the district, and a proposal
6 of a rate or rates per acre-foot for agricultural water and a rate or
7 rates per acre-foot for all water other than agricultural water for
8 the zone or zones, which rate or rates, as applied to operators who
9 produce groundwater above a specified annual amount, may be
10 subject to prescribed, fixed, and uniform increases in proportion
11 to increases by that operator in groundwater production over the
12 production of that operator for a prior base period to be specified
13 by the board.

14 (b) The report shall not contain a recommendation of any
15 increases in proportion to increased production in a zone unless
16 based upon an analysis showing the cause of the reduction in the
17 groundwater levels of the zone requiring the increases, with
18 attention given to the effect of extractions of pumpers outside of,
19 as well as within, the zone, and with an evaluation of alternative
20 measures that may feasibly be taken within the entire affected
21 groundwater basin and of any alternative supplies of water available
22 for that zone, including the availability of treated water supplied
23 by the district or treated groundwater or groundwater extracted in
24 a cleanup operation and available to the district for reuse. The
25 report shall be consistent with any conservation and reuse plan
26 approved by the State Water Resources Control Board. The report
27 shall also include all of the following:

28 (1) The amount of groundwater produced in the proposed zone
29 and alternative water sources.

30 (2) The estimated costs of recharging each zone or zones.

31 (3) The estimated costs of mitigating any effects of pumping.

32 (4) Information specifying the benefits that have been received
33 and will be received within the zone or zones where a groundwater
34 charge has been levied and collected, or is recommended to be
35 levied and collected.

36 SEC. 3. Section 26.6 of the Santa Clara Valley Water District
37 Act (Chapter 1405 of the Statutes of 1951), as amended by Section
38 31.4 of Chapter 1195 of the Statutes of 1993, is repealed.

SEC. 4. Section 26.7 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Section 10 of Chapter 279 of the Statutes of 2006, is amended to read:

26.7. (a) (1) (A) In compliance with Article XIII D of the California Constitution and Article 4.6 (commencing with Section 53750) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, the board may impose a groundwater charge in any zone.

(B) A groundwater charge levied pursuant to this act ~~shall be deemed to be~~ is a property-related charge for water services as that term is used in Section 6 of Article XIII D of the California Constitution.

(C) Before levying a groundwater charge in any zone or zones, the board shall consider the annual report prepared pursuant to Section 26.5.

(2) A groundwater ~~charged~~ charge imposed pursuant to this section shall be levied against all persons operating groundwater-producing facilities within the zone or zones where groundwater charges are imposed.

(3) (A) The charge shall be computed at a fixed and uniform rate or rates per acre-foot for agricultural water, and at a fixed and uniform rate or rates per acre-foot for all water other than agricultural water.

(B) Different rates may be established in different zones.

(C) The rate or rates, as applied to operators who produce groundwater above a specified annual amount, may, except in the case of a person extracting groundwater in compliance with a government-ordered program of cleanup of hazardous waste contamination, be subject to prescribed, fixed, and uniform increases in proportion to increases by that operator in groundwater production over the production of that operator for a prior base period to be specified by the board, upon a finding by the board that anticipated conditions of drought ~~and water shortage~~, *water shortage, or both, as projected in the annual report prepared pursuant to Section 26.5*, require the increases.

(D) The rates shall be established in accordance with a budget approved by the board pursuant to this act, or amendments or adjustments to that budget, and shall be fixed and uniform rates for agricultural water and for all water other than agricultural water, respectively, except that each rate for agricultural water shall not

1 exceed one-fourth of the rate for all water other than agricultural
2 water.

3 (b) A groundwater charge imposed pursuant to this section shall
4 be in addition to any tax or assessment levied within the district
5 or any zone.

6 SEC. 5. Section 29 is added to the Santa Clara Valley Water
7 District Act (Chapter 1405 of the Statutes of 1951), to read:

8 Sec. 29. (a) The district may provide incentives or assistance,
9 or otherwise encourage retail water suppliers to implement urban
10 water conservation measures that prevent the waste of water and
11 promote the reasonable and efficient use and reuse of available
12 supplies, including, but not limited to, water demand management
13 measures identified pursuant to Section 10631 of the Water Code
14 and efficient water management practices identified in Section
15 10608.48 of the Water Code.

16 (b) If implementation of measures, in addition to the measures
17 in subdivision (a), is a precondition for the continued delivery of
18 imported water to the district pursuant to state or federal law, the
19 district shall have the authority to require those measures.

20 SEC. 6. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district are the result of a program for which legislative authority
24 was requested by that local agency or school district, within the
25 meaning of Section 17556 of the Government Code and Section
26 6 of Article XIII B of the California Constitution.